

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Charone Smith)
)
)
Plaintiff,)
-vs-) No. 09 C 7791
)
)
Thomas J. Dart, Sheriff of Cook) *(Judge Conlon)*
County, and Cook County, Illinois)
)
Defendants.)

**PLAINTIFF'S MOTION TO BAR ANY USE OF
“EXTERNAL OPERATIONS DAILY DETAINEE
HOSPITALIZATION CHECKLIST”**

Plaintiff, by counsel, moves the Court to bar any use of the “External Operations Daily Detainee Hospitalization Checklists” pertaining to plaintiff Charone Smith.

Grounds for this motion are as follows:

1. Plaintiff alleges that her hand and foot were shackled to the hospital bed while she was in the labor and delivery room pursuant to the Sheriff's shackling policy.
2. The Sheriff's External Operations Daily Detainee Hospitalization Checklist (“checklist”) is a form prepared by the deputy sheriffs assigned to provide security for hospitalized detainees. (A sample form is attached as Exhibit 1.)

3. Defendants have to date been unable to locate the “checklist” prepared when plaintiff delivered her child. Defendants should have included the “checklist” in their Rule 26(a)(1) disclosures, as defense counsel acknowledged at the status hearing on January 19, 2010. Defendants should also have produced the “checklist” in response to plaintiff’s production request, served on February 11, 2010.

4. Plaintiff’s undersigned attorney has conferred with defense counsel about the nondisclosure of the “checklist.” Defense counsel represented that his clients had undertaken a diligent search and have been unable to locate the “checklist.”

5. The plaintiff would be prejudiced if the checklists materialize after she is deposed and the defendants were permitted to use the checklists at trial.

Wherefore plaintiff requests that the Court bar defendant from using any “checklist” at trial.

Respectfully submitted,

/s/ Thomas G. Morrissey
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an attorney for plaintiff

Exhibit 1

Cook County Sheriff / Department of Corrections
External Operations Daily Detainee Hospitalization Checklist

(Officers use 1 sheet per day for all shifts)

DATE: <u>31 AUG 08</u>	FOR ALL 3 SHIFTS STARTING ON 11-7 SHIFT	
NAME OF DETAINEE: [REDACTED]	C.I.M.L.S. NUMBER: <u>2008-</u> [REDACTED]	
NAME OF HOSPITAL: <u>S TROGER</u>	ROOM NUMBER: <u>4222</u>	

Detainee is in possession of his/her prepared package of supplies (brown envelope with writing paper, pen, and postage paid envelopes inside).

If supplies are needed contact supervisor at (773)-869-7244 then state supervisor's name and time supervisor was notified in box below:

Name of supervisor:	Time notified:
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Time that supplies were received at hospital:

Handcuffs have been removed during the following meals:

Breakfast	From:	To:
Lunch	From:	To:
Dinner	From:	To:

Handcuffs have been removed for other reason:

From:	To:	Reason:
From:	To:	Reason:
From:	To:	Reason:

Detainee was allowed to ambulate:

Shift:	From:	To:
Shift: D-700	From: 15-20	To: NA
Shift:	From:	To:

Detainee was allowed to use the restroom facilities:
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Shift:	From:	To:
Shift:	From:	To:
Shift: D-700	From: 1500	To: 1545 PAN
Shift:	From:	To:
Shift:	From:	To:

Detainee was allowed to make the following monitored telephone calls:

Number:	Person calling:	Time call started:	Time call ended:
Number:	Person calling:	Time call started:	Time call ended:

Detainee had visitors:

Name & ID number:	From:	To:
Name & ID number:	From:	To:
Name & ID number:	From:	To:

Officers on duty:

11-7 Shift	Name: <u>O.D.C. Carol A. Brund</u>	Star #: <u>6041</u>	Lunch Relief Officer & Star#:
7-3 Shift	Name: <u>O.D.C. Nancy</u>	Star #: <u>4030</u>	Lunch Relief Officer & Star#:
3-11 Shift	Name: <u>O.D.C. White</u>	Star #: <u>60522</u>	Lunch Relief Officer & Star#:

Supervisor checks:

11-7 Shift	Name: <u>Lester M. Winkler Jr.</u>	Star #: <u>300</u>	Time: <u>0130-5</u>
7-3 Shift	Name: <u>John J. O'Brien</u>	Star #: <u>719</u>	Time: <u>1315-9</u>
3-11 Shift	Name: <u>John J. O'Brien</u>	Star #: <u>719</u>	Time: <u>1710</u>

Note any and all extra information or unusual occurrences on the back of this sheet!

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of April, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Patrick S. Smith, ASA, 500 Daley Center, Chicago, IL 60602, and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants: none.

/s/ Kenneth N. Flaxman

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